

United States District Court  
EASTERN DISTRICT OF WASHINGTON

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

NOV 06 2008

JAMES P. HUTTON, CLERK

DEPUTY  
CLERK

UNITED STATES OF AMERICA

V.

JAVIER TIJERINA

CRIMINAL COMPLAINT

CASE NUMBER: MJ-08-4178-1

(Name & Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about May 29, 2008 in Yakima county, in the Eastern District of Washington defendant(s) did, (Track Statutory Language of Offense)

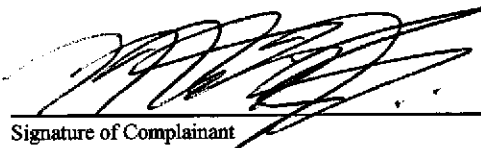
having been convicted of a crime punishable by imprisonment for a term exceeding one year, to wit: Possession of a Controlled Substance With No Prescription, on 12/5/07, in the Superior Court for the County of Yakima in the State of Washington, cause number 07-1-00719-4, did knowingly and intentionally receive and possess in and affecting commerce, a firearm, to wit, a Winchester, model 1300, 12 gauge shotgun, bearing serial number L2468376, which had been shipped and transported in interstate commerce

in violation of Title 18 United States Code, Section(s) 922(g)(1).

I further state that I am a(n) Special Agent and that this complaint is based on the following facts:  
Official Title

See attached incorporated herein by reference.

Continued on the attached sheet incorporated herein by this reference Yes ☒ No ☐

  
Signature of Complainant

Sworn to before me, and subscribed in my presence

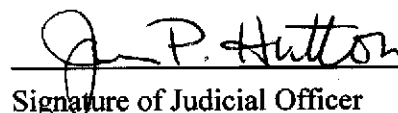
11/ 6 /2008  
Date

JAMES P. HUTTON

United States Magistrate Judge

\_\_\_\_\_  
Name and Title of Judicial Officer

at Yakima, Washington  
City and State

  
Signature of Judicial Officer

### ATTACHMENT "A"

On May 29, 2008 Washington State Patrol Trooper Sergio Cervantes attempted to conduct a traffic stop on a vehicle, driven by Javier TIJERINA, for speeding. The vehicle was identified as a 1990 Suzuki Swift with WA license plates 688VPQ. TIJERINA attempted to elude Trooper Cervantes and led the Trooper on a high-speed chase before finally pulling over.

During the pursuit, Trooper Cervantes observed TIJERINA throw a black tube out of the window of the vehicle while traveling northbound on Washout Road near Van Belle Road near Sunnyside, WA. Trooper Cervantes radioed for another patrol unit to travel to that location and retrieve the item that had been thrown out of the window of TIJERINA's vehicle. Sunnyside Police Officer Ryan Bruso responded and conducted a search of the area and located the item. Officer Bruso brought the item to the traffic stop location and made contact with Trooper Cervantes. Trooper Cervantes identified the item as the one he saw being thrown from the window of TIJERINA's vehicle. The item was a Winchester, model 1300, 12 gauge shotgun, bearing serial number L2468376.

Trooper Cervantes Mirandized TIJERINA and TIJERINA indicated that he understood his constitutional rights and was willing to speak to Trooper Cervantes. Trooper Cervantes asked TIJERINA if he knew what he threw out of the car. TIJERINA replied that "it's not mine". Trooper Cervantes advised TIJERINA that that was not an answer to the question asked of him. TIJERINA replied that he "just wanted it out of the car." Without telling TIJERINA what the officers recovered, Trooper Cervantes asked TIJERINA if it was stolen. TIJERINA replied that it was not. Trooper Cervantes asked TIJERINA why he threw it out of the car. TIJERINA replied that he did not want it in the car.

TIJERINA was then booked into Sunnyside Jail and charged with Felony Eluding and Unlawful Possession of a Firearm.

TIJERINA has five (5) prior adult felony convictions, and are as follows:

- 3/16/1998- Robbery, 2<sup>nd</sup> Degree, Yakima County Superior Court, case number 98-1-00092-4,
- 4/5/2002 - Possession of Stolen Property, 2<sup>nd</sup> Degree, Yakima County Superior Court, case number 02-1-00470-4,
- 4/5/2002 - Attempt to Elude, Yakima County Superior Court, case number 02-1-00143-8,
- 8/17/2004- VUCSA-Possession of Cocaine, Yakima County Superior Court, case number 04-1-01263-1,
- 12/5/2007- Possession of a Controlled Substance with No Prescription, Yakima County Superior Court, case number 07-1-00719-4.

TJERINA is currently on Active DOC status with Sunnyside Department of Corrections and is considered a violent offender.

ATF Special Agent Mario Piergallini has obtained certified copies of the Judgment and Sentences, to include the Fingerprint Certificate of Attestations on each of the above listed court cause numbers.

On 10/06/2008, ATF SA Thomas Walsh reviewed the information forwarded by S/A Piergallini regarding the firearm associated with the TJERINA investigation. Following a review of the information, S/A Walsh made a determination of interstate nexus. The following information relates to this firearm:

Winchester, model 1300 Defender, 12 gauge shotgun, serial number L2468376, (manufactured by Winchester located in Connecticut).

S/A Walsh concluded that since the firearm listed above was possessed in the state of Washington, the firearm would have previously moved in and affected interstate commerce.